

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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www.montgomerycountymd.gov/content/council/boa/board.asp

Case No. S-2631

PETITION OF GERMANTOWN WALTER JOHNSON PROPERTY, LLC

OPINION OF THE BOARD

(Opinion Adopted September 14, 2005)

(Effective Date of Opinion: October 12, 2005)

Case No. S-2631 is an application for a special exception pursuant to Section 59-G-2.06 (Automobile filling station and a convenience store). The Hearing Examiner for Montgomery County held a hearing on the application on March 21, 2005, April 4, 2005 and April 11, 2005, closed the record in the case on April 25, 2005, and on August 8, 2005, issued a Report and Recommendation for approval of the special exception.

The subject property is located in the Derwood Industrial Park, bordered by East Gude Drive, Cecil Street and Derwood Circle, Rockville, Maryland in the I-1 Zone.

Decision of the Board: Special Exception **Granted**, Subject
To the Conditions Enumerated Below

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on September 14, 2005. After careful consideration and review of the record, the Board adopts the Report and Recommendation and **grants** the special exception subject to the following conditions:

1. The Petitioner shall be bound by all of its testimony and exhibits of record, including the site plan, Exhibit 58(b), the landscape plan, Exhibit 53(b), and the photometric plan, Exhibit 5(b), and by the testimony of its witnesses and representations of counsel identified in this report.

2. The special exception is limited to an automobile filling station with four multi-product dispensers and a total of eight pumping positions, and a convenience store with no more than 3,132 total square feet and 1,486 square feet of patron area.
3. Signage shall be limited to a single free-standing sign in the northeast corner of the site, consistent with the example provided in Exhibit 5(d), and convenience store signage consistent with the submitted elevations, Exhibit 4(b).
4. The Petitioner shall be required to obtain written approval from the Montgomery County Department of Transportation and Public Works, prior to submission of an application for preliminary plan of subdivision approval, for proposed improvements to Cecil Street, or for equivalent improvements that will attain the same goal of widening Cecil Street sufficiently to allow two delineated northbound lanes, capable of accommodating large trucks. A dated copy of such written approval, and of the portion of the preliminary plan application showing its filing date, shall be provided to the Board of Appeals for its records within 30 days of filing the preliminary plan application.
5. The Petitioner shall be required to obtain written approval from the Montgomery County Department of Permitting Services, prior to submission of an application for preliminary plan of subdivision approval, confirming the adequacy of the internal site circulation for passenger vehicles and delivery trucks. A dated copy of such written approval, and of the portion of the preliminary plan application showing its filing date, shall be provided to the Board of Appeals for its records within 30 days of filing the preliminary plan application.

On a motion by Louise L. Mayer, seconded by Angelo M. Caputo, Wendell M. Holloway and Donna L. Barron, Vice-Chair in agreement and Allison Ishihara Fultz, Chair necessarily not participating, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Donna L. Barron
Vice-Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for

Montgomery County, Maryland
this 12th day of October, 2005.

Katherine Freeman
Executive Director

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.